

URGENCY ORDINANCE NO. 05-__

**AN URGENCY ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF COSTA MESA, CALIFORNIA
TEMPORARILY SUSPENDING THE AUTHORITY OF THE
PLANNING COMMISSION ESTABLISHED BY THE
COSTA MESA MUNICIPAL CODE SECTION 13-10.**

WHEREAS, after the November 2004 election, two of the City's Planning Commissioners are now elected members of the City Council leaving the City's Planning Commission with a membership of three, the minimum number of Commissioners required to form a quorum; and

WHEREAS, one of the remaining three Planning Commissioners is unavailable due to emergency surgery and cannot participate in the Planning Commission. Therefore, the Planning Commission does not have a quorum and cannot therefore, take any action on planning applications pending before it; and

WHEREAS, the City Council is in the process of accepting applications and appointing new Planning Commissioners by majority vote pursuant to Ordinance No. 04-17; and

WHEREAS, pursuant to the California Subdivision Map Act, California Government Code sections 66410 et. seq. (the "Map Act"), the Permit Streamlining Act, California Government Code sections 65920, et seq. (the "PSA"), and other provisions of California law (collectively referred to as the "Applicable Laws"), the City is required to take action on certain planning applications within the time limits specified in the Applicable Laws. If the City does not take action within the specified time limits, such applications will be "deemed approved" without input from the City under specified circumstances; and

WHEREAS, the Planning Commission currently has several planning applications pending before it that require action before the end of January 2005 or these applications may be deemed approved pursuant to the Applicable Laws; and

WHEREAS, the City Council has authorized the Planning Commission to perform certain functions as set forth in the Cost Mesa Municipal Code Section 13-10; and

WHEREAS, California Government Code Section 65100 allows a legislative body to either create a planning commission to which is shall assign the functions of a planning agency or designate those functions to the legislative body itself; and

WHEREAS, because the City Council has, by ordinance designated the planning functions to the Planning Commission, and because of the lack of a quorum in the current Planning Commission and the requirement to timely review certain planning applications, the City Council finds that the Planning Commission's authority must be temporarily suspended and that the City Council shall be temporarily designated as the planning agency and shall carry out the functions of the planning agency required by law.

WHEREFORE, THE CITY COUNCIL OF THE CITY OF COSTA MESA DOES
HEREBY ORDAIN AS FOLLOWS:

Section 1. Findings of Urgency.

The City Council of the City of Costa Mesa, pursuant to the provisions of Government Code section 36937(b), finds and declares that it is necessary that this ordinance become effective upon its passage for the immediate preservation of the public peace, health and safety for the following reasons and others. Due to the election of two members of the City's Planning Commission to the office of City Council Member and their assuming the responsibilities of such offices on December 6, 2004, the Planning Commission is now operating with only three members which is the minimum number of Commissioners required to form a quorum. One of these three remaining Commissioners is now unavailable to attend meetings due to emergency surgery. The City Council is currently in the process of reviewing applications for appointment to the Planning Commission by majority vote, which appointments shall take place on February 7, 2005. The City Council has authorized the Planning Commission to perform certain functions as set forth in the Cost Mesa Municipal Code Section 13-10. However, pursuant to the California Subdivision Map Act, (California Government Code sections 66410, et. seq.), (the "Map Act"), the Permit Streamlining Act, California Government Code sections 65920, et seq. (the "PSA"), and other provisions of California law (collectively referred to as the "Applicable Laws"), the City is required to take action on certain planning applications within the time limits specified in the Applicable Laws. If the City does not take action within the specified time limits, such applications can be "deemed approved" without input from the City, which does not promote the health, safety and welfare of the citizens of the City. The Planning Commission currently has several planning applications pending before it that require action on or before January 31, 2005 or these applications may be deemed approved pursuant to the Applicable Laws.

Notwithstanding the above, California Government Code Section 65100 allows a legislative body to either create a planning commission to which is shall assign the functions of a planning agency or designate those functions to the legislative body itself. Therefore, because the City Council has, by ordinance designated the planning functions to the Planning Commission, and because of the lack of a quorum in the current Planning Commission and the requirement to timely review certain planning applications, the City Council finds that the Planning Commission's authority must be temporarily suspended and that the City Council shall be temporarily designated as the planning agency to carry out the functions of the planning agency and to hear those planning applications that require action pursuant to the Act, on or before January 31, 2005.

Due to these and other reasons this ordinance needs to take effect upon its adoption as an urgency measure to protect and preserve the public's interests and general welfare.

Section 2. Costa Mesa Municipal Code Section 13-10 is hereby temporarily

suspended until February 3, 2005 at which time the provisions of Section 13-10 shall be reinstated in full in conjunction with the effective date of Ordinance No. 04-17.

Section 3. The City Council of the City of Costa Mesa shall perform all functions of the planning agency for those planning applications that, pursuant to the Applicable Laws would be deemed approved on or before January 31, 2005 without further action of the City.

Section 4. Nothing in this Ordinance is intended to have any effect on or delay the effective date of Ordinance 04-17 dealing with the method and term of appointment of Planning Commissioners.

Section 5. Inconsistencies. Any provision of the Costa Mesa Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to affect the provisions of this Ordinance.

Section 6. Severability. If any chapter, article, section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, or the application thereof to any person, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this Ordinance or its application to other persons. The City Council hereby declares that it would have adopted this Ordinance and each chapter, article, section, subsection, subdivision, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, phrases, or portions of the application thereof to any person, be declared invalid or unconstitutional. No portion of this Ordinance shall supersede any local, State, or Federal law, regulation, or codes dealing with life safety factors.

Section 7. Effective Date and Publication.

This Ordinance shall take effect and be in full force and effect immediately from and after its passage and only until February 3, 2005. Before the expiration of fifteen (15) days after its passage, this ordinance shall be published in full once in the NEWPORT BEACH/COSTA MESA DAILY PILOT, a newspaper of general circulation, printed and published in the City of Costa Mesa together with the names of the members of the City Council voting for and against the ordinance.

PASSED AND ADOPTED this ____ day of _____, 2005

Mayor

ATTEST:

APPROVED AS TO FORM:

Deputy City Clerk of the
City of Costa Mesa

City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF COSTA MESA)

I, JULIE FOLCIK, Deputy City Clerk and ex-officio clerk of the City Council of the City of Costa Mesa, hereby certify that the above and foregoing Ordinance No. 05-__ was introduced and considered section by section at a regular meeting of said City Council held on the ___ day of _____, 2005, and thereafter passed and adopted as a whole at a regular meeting of said City Council held on the ___ day of _____, 2005, by the following roll call vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of the City of Costa Mesa this ___ day of _____, 2005.

Deputy City Clerk and ex-officio
Clerk of the City Council of the
City of Costa Mesa